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Landmark Victory Against Merrill Lynch Upheld by Federal Court

Sarasota, FL – Shumaker, Loop & Kendrick, LLP is pleased to announce that the Broker-Dealer Litigation and Arbitration practice group, managed by Michael S. Taaffe, achieved confirmation of their landmark victory in *Ramazio and Smolchek v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, FINRA Case No. 10-04432. The United States District Court for the Southern District of Florida found no basis for the arbitration award to be vacated, and entered judgment in favor of Shumaker's clients, Ramazio and Smolchek.

Ramazio and Smolchek sued Merrill Lynch to enforce deferred compensation contracts in which they participated that provided for accelerated vesting of their deferred compensation following a change in control of Merrill Lynch and subsequent detriments to their employment. Merrill Lynch challenged the arbitration award in Federal Court on the primary theory that one of the three FINRA arbitrators was biased due to her spouse's professional activities. The Court disagreed with Merrill Lynch's assertions, concluding "that Merrill Lynch has not sufficiently demonstrated evident partiality on the part of the [arbitration] panel or that the panel engaged in misconduct or exceeded its powers."

Ramazio and Smolchek were formerly employed as Merrill Lynch financial advisors in Delray Beach, Florida, until they resigned after Merrill Lynch agreed to merge with Bank of America. Ramazio and Smolchek filed a FINRA arbitration on October 1, 2010. The FINRA arbitration, which was handled by Michael S. Taaffe, Jarrod J. Malone and Michael D. Bressan, included 40 hearing sessions spread over more than 100 days. After considering the claims, the arbitration panel awarded Ramazio and Smolchek a combined $10.25 million in damages, including $5 million in punitive damages. The panel found that Merrill Lynch "intentionally, willfully and deliberately engaged in a systematic and systemic fraudulent scheme to deprive [Ramazio and Smolchek] of their rights and benefits under its Deferred Compensation Programs (FACAAP, Growth Award and WealthBuilder) as well as other benefits to avoid liability after the change in control."

SERVICE LINE

Litigation & Disputes

RELATED PROFESSIONALS

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In October 2010, Shumaker's Sarasota Broker-Dealer Litigation and Arbitration Practice, which is also comprised of Scott A. La Porta, David L. Wyant Jr. and Jeremy M. Halpern, previously won the first case of this kind against Merrill Lynch – *Rumley and Montague v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, FINRA Case No. 09-02428. The Broker-Dealer Litigation and Arbitration Practice currently represents more than 1000 former Merrill Lynch financial advisors pursuing similar deferred compensation claims.

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Founded in 1925, Shumaker, Loop & Kendrick, LLP is a full service law firm with over 225 attorneys practicing in Toledo and Columbus, Ohio; Tampa and Sarasota, Florida; and Charlotte, North Carolina.

ADDITIONAL RELATED PRESS

- Shumaker release, May 8, 2012
- *Forbes* article
- *FundFire* article, September 18, 2012
- *Herald-Tribune* article
- *4-traders* article
- Thomson Reuters *News & Insight* article
- *Gulf Coast Business Review* article
- NASDAQ article
- *Reuters* article
- *Gulf Coast Business Review* article
- *Chicago Tribune* article
- *Law 360* article
- *American Lawyer* magazine article

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